

# UNITED STATES CODE OF FEDERAL REGULATIONS (50 CFR)

**Part 216** - Regulations Governing the Taking and Importing of Marine Mammals

**Subpart A** - Introduction

## **216.1 PURPOSE OF REGULATIONS**

The regulations in this part implement the Marine Mammal Protection Act of 1972, which among other things, restricts the taking, possession, transportation, selling, offering for sale, and importing of marine mammals.

### **216.3 DEFINITIONS**

In addition to definitions contained in the Act, and unless the context otherwise requires, in this part 216:

*Feeding* is offering, giving, or attempting to give food or non-food items to marine mammals in the wild. It includes operating a vessel or providing other platforms from which feeding is conducted or supported. It does not include the routine discard of by catch during fishing operations or routine discharge of waste or fish by products from fish processing plants or other platforms if the discharge is otherwise legal and is incidental to operation of the activity.

*Endangered Species* means a species or subspecies of marine mammal listed as "endangered" pursuant to the Endangered Species Act of 1973.

*Take* means to harass, hunt, capture, collect, or kill, or attempt to harass, hunt, capture, collect, or kill any marine mammal. This includes, without limitation, any of the following: The collection of dead animals, or parts thereof; the restraint or detention of a marine mammal, no matter how temporary; tagging a marine mammal; the negligent or intentional operation of an aircraft or vessel, or the doing of any other negligent or intentional act which results in disturbing or molesting a marine mammal; and feeding or attempting to feed a marine mammal in the wild.

*Threatened Species* means a species of marine mammal listed as "threatened" pursuant to the Endangered Species Act of 1973.

### **216.8 Enforcement officers**

Enforcement Agents of the National Marine Fisheries Service shall enforce the provisions of the MMPA and may take any actions authorized by the MMPA with respect to enforcement. In addition, the Secretary of Commerce may utilize, by agreement, the personnel, services, and facilities of any other Federal Agency for the purposes of enforcing this MMPA. Pursuant to the terms of section 107(b) of the MMPA, the Secretary may also designate officers and employees of any State or of any possession of the United States to enforce the provisions of this MMPA.

## **SUBPART B - PROHIBITIONS**

### **216.11 Prohibited Taking**

Except as otherwise provided in subparts C, D, and I of this part 216 or in part 228 or 229, it is unlawful for:

- (a) Any person, vessel, or conveyance subject to the jurisdiction of the United States to take any marine mammal on the high seas, or
- (b) Any person, vessel, or conveyance to take any marine mammal in waters or on lands under the jurisdiction of the United States, or
- (c) Any person subject to the jurisdiction of the United States to take any marine mammal during the moratorium.

The Marine Mammal Protection Act prohibits the “taking” of marine mammals in waters or on land under the jurisdiction of the United States by any person and by U.S. citizens on the high seas. In addition, the MMPA prohibits the importing of marine mammals and marine mammal products into the United States. However, NOAA Fisheries (NMFS) is authorized to issue permits and/or authorizations that authorize the following activities under certain conditions:

- scientific research
- enhancing the survival or recovery of a marine mammal species or stock
- commercial and educational photography
- first-time import for public display
- capture of wild marine mammals for public display
- incidental take during commercial fisheries, and
- incidental take during non-fishery activities.

NOAA Fisheries (NMFS) maintains jurisdiction over whales, dolphins, porpoises, seals and sea lions. The U.S. Fish and Wildlife Service maintains jurisdiction for walruses, polar bears, sea otters, manatees and dugongs.

Some species of marine mammals are also protected by the Endangered Species Act (ESA) and the Fur Seal Act (FSA) which may have additional restrictions.